

AMENDED IN SENATE AUGUST 5, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2554

Introduced by Assembly Member Brownley

February 19, 2010

An act to amend Sections 2 and 16 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915), relating to the Los Angeles County Flood Control District.

LEGISLATIVE COUNSEL'S DIGEST

AB 2554, as amended, Brownley. Los Angeles County Flood Control District: fees and charges.

Existing law, the Los Angeles County Flood Control Act, establishes the Los Angeles County Flood Control District and authorizes the district to control and conserve the flood, storm, and other wastewater of the district. The act declares the district to be a body corporate and politic, and to have various powers, including the power to cause taxes to be levied and collected for the purpose of paying any obligation of the district.

This bill would authorize the district to impose a fee or charge ~~in the unincorporated areas of the county~~, in compliance with Article XIII D of the California Constitution, to pay the costs and expenses of ~~the district, and to carry out the objects or purposes of the act~~ *carrying out projects and providing services to improve water quality and reduce stormwater and urban runoff pollution in the district in accordance with specified criteria*. The bill would require that any fees imposed be levied and collected together with taxes for county purposes, and the

revenues paid into the county treasury to the credit of the district. *The bill would require the county board of supervisors to expend the funds to pay for those costs and expenses, to be allocated as prescribed.*

The act authorizes the board of the district, subject to certain limitations, to do all acts or things necessary or useful for the promotion of the work or the control of the flood and storm waters of the district, to conserve those waters for beneficial and useful purposes, and to protect from damage from storm or flood waters, the harbors, waterways, public highways, and property of the district. One limitation upon the authority of the board of the district is that it is not authorized to raise money for the district by any method or system other than by issuing bonds, or the levying of a tax upon the assessed value of all the real property of the district, except from the sale and lease of its property.

This bill would instead provide that the board of the district is not authorized to raise money for the district by any method or system other than by issuing bonds, the levying of a tax, or the imposition of a fee or charge in compliance with Article XIII D of the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2 of the Los Angeles County Flood
2 Control Act (Chapter 755 of the Statutes of 1915), as amended by
3 Section 33 of Chapter 1276 of the Statutes of 1975, is amended to
4 read:

5 Sec. 2. The objects and purposes of this act are to provide for
6 the control and conservation of the flood, storm and other waste
7 waters of said district, and to conserve these waters for beneficial
8 and useful purposes by spreading, storing, retaining or causing to
9 percolate into the soil within the district, or to save or conserve in
10 any manner, all or any of these waters, and to protect from damage
11 from flood or storm waters, the harbors, waterways, public
12 highways and property in the district.

13 The Los Angeles County Flood Control District is hereby
14 declared to be a body corporate and politic, and has all the
15 following powers:

16 1. To have perpetual succession.

1 2. To sue and be sued in the name of the district in all actions
2 and proceedings in all courts and tribunals of competent
3 jurisdiction.

4 3. To adopt a seal and alter it at pleasure.

5 4. To take by grant, purchase, gift, devise or lease, hold, use,
6 enjoy, and to lease or dispose of real or personal property of every
7 kind within or without the district necessary to the full exercise of
8 its power.

9 5. To acquire or contract to acquire lands, rights-of-way,
10 easements, privileges and property of every kind, and construct,
11 maintain and operate any and all works or improvements within
12 or without the district necessary or proper to carry out any of the
13 objects or purposes of this act, and to complete, extend, add to,
14 repair or otherwise improve any works or improvements acquired
15 by it as herein authorized. Construction or improvement of existing
16 facilities may involve landscaping and other aesthetic treatment
17 in order that the facility will be compatible with existing or planned
18 development in the area of improvement.

19 6. To exercise the right of eminent domain, either within or
20 without the district, to take any property necessary to carry out
21 any of the objects or purposes of this act.

22 7. To incur indebtedness, and to issue bonds in the manner
23 herein provided.

24 7a. To borrow money from the United States of America, any
25 agency or department thereof, or from any nonprofit corporation,
26 organized under the laws of this state, to which the Reconstruction
27 Finance Corporation, a corporation organized and existing under
28 and by virtue of an act of Congress, entitled "Reconstruction
29 Finance Corporation Act," or other agency, or department, of the
30 United States government, has authorized, or shall hereafter
31 authorize, a loan to enable nonprofit corporation to lend money to
32 the Los Angeles County Flood Control District, for any flood
33 control work authorized under this act, and to repay the same, in
34 annual installments, over a period of not to exceed twenty (20)
35 years, with interest at a rate of not to exceed four and one-fourth
36 per centum (4 ¼%) per annum, payable semiannually, and, without
37 the necessity of an election when authorized by resolution of the
38 board of supervisors, as evidences of that indebtedness, the district
39 is hereby authorized to execute and deliver a note, or a series of
40 notes, or bonds, or other evidences of indebtedness, signed by the

1 chairperson of the board of supervisors of the district, which notes,
2 bonds, or other evidences of indebtedness, shall be negotiable
3 instruments if so declared in the resolution of the board of
4 supervisors providing for their issuance, and notes, bonds, or other
5 evidences of indebtedness, may have interest coupons attached to
6 evidence interest payments, signed by the facsimile signature of
7 the chairperson of the board. All applications for these loans shall
8 specify the particular flood control work or projects for which the
9 funds will be expended, and when received, the money shall be
10 deposited in a special fund, and shall be expended for those
11 purposes only which are described and referred to in the
12 applications. If a surplus remains after the completion of the work,
13 the surplus shall be applied to the payment of the note, notes,
14 bonds, or other evidences of indebtedness, executed as aforesaid,
15 for the loan including interest coupons. The board of supervisors
16 shall annually levy a tax upon the taxable real property of the
17 district, clearly sufficient to pay the interest and installments of
18 principal, as the same shall become due and payable, under any
19 loan made pursuant to the authority of this section, and to create
20 and maintain a reserve fund to assure the prompt payment thereof,
21 as may be provided by resolution of the board of supervisors.
22 However, the amount of taxes levied in any year, pursuant to this
23 subsection, shall, pro tanto, reduce the authority of the board of
24 supervisors, during any year, to levy taxes under Section 14 of this
25 act, but this proviso shall not be a limitation upon the power and
26 duty to levy and collect taxes under this subsection.
27 Notwithstanding any other provisions of law, interest earned on
28 funds representing the proceeds of bonds of the district shall be
29 deposited and retained in the reserve fund of the district to meet
30 the principal and interest falling due on these bonds.

31 Notwithstanding anything in this subsection to the contrary, the
32 total amount the district may borrow under the authority of any or
33 all of the provisions of this subsection is limited to and shall not
34 exceed in the aggregate the sum of four million five hundred
35 thousand dollars (\$4,500,000).

36 7b. The power granted in the next preceding subsection is hereby
37 extended to authorize the issuance and sale of bonds or other
38 evidences of indebtedness of the district to the County of Los
39 Angeles and the purchase thereof by the county in accordance with
40 "An act authorizing the investment and reinvestment and

1 disposition of any surplus moneys in the treasury of any county,
2 city and county, incorporated city or town or municipal utility
3 district or flood control district,” approved April 23, 1913, as
4 amended; all subject to the provisions and limitations of the next
5 preceding subsection relative to the disposition and use of funds,
6 interest rate, period of repayment, tax rate and mode of issuance.
7 The total amount of bonds or other evidence of indebtedness, in
8 the aggregate, which the district may issue and sell under the
9 authority of subsection 7a and of this subsection is limited to and
10 shall not exceed four million five hundred thousand dollars
11 (\$4,500,000).

12 8. To cause taxes to be levied and collected for the purpose of
13 paying any obligation of the district in the manner provided in this
14 section.

15 ~~8a. To impose a fee or charge, in the unincorporated areas of the~~
16 ~~county, in compliance with Article XIII D of the California~~
17 ~~Constitution, to pay the costs and expenses of the district, and to~~
18 ~~carry out the objects or purposes of this act. Any fee that is imposed~~

19 *8a. To impose a fee or charge, in compliance with the applicable*
20 *provisions of Article XIII D of the California Constitution, to pay*
21 *the costs and expenses of carrying out projects and providing*
22 *services to improve water quality and reduce stormwater and*
23 *urban runoff pollution in the district in accordance with criteria*
24 *established by the ordinance adopted pursuant to subsection 8c.*
25 *Any fee that is imposed pursuant to this subsection shall be levied*
26 *and collected together with, and not separately from, taxes for*
27 *county purposes, and the revenues derived from the fees shall be*
28 *paid into the county treasury to the credit of the district, and the*
29 *board of supervisors may shall expend these funds to pay for costs*
30 *described in and expenses in accordance with this subsection.*

31 *8b. The district shall allocate the revenues derived from any*
32 *fee or charge imposed pursuant to subsection 8a as follows:*

33 *(A) Ten percent shall be allocated to the district for*
34 *implementation and administration of water quality programs, as*
35 *determined by the district, including activities such as planning,*
36 *water quality monitoring, and any other related activities, and for*
37 *payment of the costs incurred in connection with the levy and*
38 *collection of the fee and the distribution of the funds generated by*
39 *imposition of the fee, as established by the ordinance adopted*
40 *pursuant to subsection 8c.*

1 (B) Forty percent shall be allocated to cities within the
2 boundaries of the district and to the County of Los Angeles, in the
3 same proportion as the amount of fees collected within each
4 jurisdiction and within the unincorporated territories, to be
5 expended by those cities within the cities' respective jurisdictions
6 and by the County of Los Angeles within the unincorporated
7 territories that are within the boundaries of the district, for water
8 quality improvement programs, as established by the ordinance
9 adopted pursuant to subsection 8c.

10 (C) Fifty percent shall be allocated to nine watershed authority
11 groups that shall be authorized by the ordinance adopted pursuant
12 to subsection 8c, in the same proportion as the amount of fees
13 collected within each watershed, to implement collaborative water
14 quality improvement plans or programs in the watersheds as
15 established by the ordinance adopted pursuant to subsection 8c.
16 Those nine watershed authority groups shall be established for
17 the Ballona Creek, Dominguez Channel, Upper Los Angeles River,
18 Lower Los Angeles River, Rio Hondo, Upper San Gabriel River,
19 Lower San Gabriel River, Santa Clara River, and Santa Monica
20 Bay watersheds. The watershed authority groups shall be
21 established pursuant to Article 1 (commencing with Section 6500)
22 of Chapter 5 of Division 7 of Title 1 of the Government Code. The
23 implementation of a collaborative water quality improvement plan
24 or program by a watershed authority group shall require the
25 consent of any watershed authority group member whose
26 jurisdiction comprises more than 40 percent of the total land area
27 in a watershed.

28 8c. The governing board of the district shall adopt an ordinance
29 to implement the authority granted pursuant to subsections 8a and
30 8b.

31 9. To make contracts, and to employ for temporary services
32 only, expert appraisers, consultants and technical advisers, and to
33 do all acts necessary for the full exercise of all powers vested in
34 the district, or any of the officers thereof, by this act.

35 10. To grant or otherwise convey to counties, cities and counties,
36 cities or towns easements for street and highway purposes, over,
37 along, upon, in, through, across or under any real property owned
38 by the Los Angeles County Flood Control District.

39 11. To remove, carry away and dispose of any rubbish, trash,
40 debris or other inconvenient matter that may be dislodged,

1 transported, conveyed or carried by means of, through, in, or along
2 the works and structures operated or maintained hereunder and
3 deposited upon the property of the district or elsewhere.

4 12. To pay premiums on bonds of contractors required under
5 any contract if the amount payable to the contractor exceeds five
6 million dollars (\$5,000,000); provided, that the specifications in
7 these cases shall specifically so provide and state that the bidder
8 shall not include in his or her bids the cost of furnishing the
9 required bonds.

10 13. To lease, sell or dispose of any property (or any interest
11 therein) whenever in the judgment of the board of supervisors of
12 the property, or any interest therein or part thereof, is no longer
13 required for the purposes of the district, or may be leased for any
14 purpose without interfering with the use of the same for the
15 purposes of the district, and to pay any compensation received
16 therefor into the general fund of the district and use the same for
17 the purposes of this act. However, nothing herein shall authorize
18 the board of supervisors or other governing body of the district or
19 any officer thereof to sell, lease or otherwise dispose of any water,
20 water right, reservoir space or storage capacity or any interest or
21 space therein except to public agencies for recreational purposes
22 when the use is not inconsistent with the use thereof by the district
23 for flood control and water conservation purposes; or except as
24 provided by Section 17 of this act. However, the district may grant
25 and convey to the United States of America, or to any federal
26 agency authorized to accept and pay for the land or interests in
27 land, all lands and interests in land, now owned or hereafter
28 acquired, lying within any channel, dam or reservoir site, improved
29 or constructed, in whole or in part, with federal funds, upon
30 payment to the district of sums equivalent to actual expenditures
31 made by it in acquiring the lands and interests in land so conveyed
32 and deemed reasonable by the Secretary of War and the Chief of
33 Engineers.

34 14. To provide, by agreement with other public agencies or
35 private persons or entities or otherwise, for the recreational use of
36 the lands, facilities, and works of the district which shall not
37 interfere, or be inconsistent, with the primary use and purpose of
38 the lands, facilities, and works by the district.

39 15. In addition to its other powers, the district shall have the
40 power to preserve, enhance, and add recreational features to its

1 properties and upon a finding by the board of supervisors that the
2 acquisition is necessary for those purposes, to acquire, preserve,
3 enhance, and add recreational features to lands or interests in lands
4 contiguous to its properties, for the protection, preservation, and
5 use of the scenic beauty and natural environment for the properties
6 or the lands and to collect admission or use fees for the recreational
7 features where deemed appropriate.

8 The district by or through its board of supervisors, or other board
9 or officers at any time succeeding to the duties or functions of its
10 board of supervisors, is hereby authorized and empowered to
11 warrant and defend the title to all land and interests therein so
12 conveyed to the United States of America or to any agency and
13 its respective assigns; to covenant and agree to indemnify and keep
14 indemnified and to hold and save harmless and exonerated the
15 United States of America or any agency, to which lands or any
16 interest therein are so conveyed by the district, from and against
17 all demands, claims, liabilities, liens, actions, suits, charges, costs,
18 loss, damages, expenses and attorneys' fees of whatsoever kind
19 or nature, resulting from, arising out of or occasioned by any defect
20 or defects whatsoever in the title to any land or interest in land so
21 conveyed by the district; to reimburse and save harmless and
22 exonerated the United States of America or any agency for any
23 and all amounts, paid, and expenses incurred, in the compromise
24 or settlement of any demands, claims, liabilities, liens, actions,
25 suits, charges, costs, loss, damages, expenses and attorneys' fees
26 of whatsoever kind or nature, resulting from, arising out of or
27 occasioned by any claim to or defect or defects whatsoever in the
28 title to any land or interests in land so conveyed by the district; to
29 pay all just compensation, costs and expenses, which may be
30 incurred in any condemnation proceeding deemed necessary by
31 the United States of America or that agency, in order to perfect
32 title to any land or interests in land, including without limitation
33 all attorneys' fees, court costs and fees, costs of abstracts and other
34 evidences of title, and all other costs, expenses or damages incurred
35 or suffered by the United States of America or that agency; and
36 consent is hereby given to the bringing of suit or other legal
37 proceedings against the district by the United States of America
38 or that agency, as the case may be, in the proper district court of
39 the United States, upon any cause of action arising out of any
40 conveyance, contract or covenant made or entered into by the

1 district pursuant to the authority granted in this act, or to enforce
2 any claims, damages, loss or expenses arising out of or resulting
3 from any defect whatsoever in the title to the land or any interest
4 therein or any claims of others in or to the land or interest therein.

5 SEC. 2. Section 16 of the Los Angeles County Flood Control
6 Act (Chapter 755 of the Statutes of 1915), as amended by Section
7 6 of Chapter 1276 of the Statutes of 1975, is amended to read:

8 Sec. 16. (a) The board of supervisors of the district shall have
9 power to make and enforce all needful rules and regulations for
10 the administration and government of the district, and to perform
11 all other acts necessary or proper to accomplish the purposes of
12 this act.

13 (b) The board of supervisors shall have power to do all work
14 and to construct and acquire all improvements necessary or useful
15 for carrying out any of the purposes of this act; and the board of
16 supervisors shall have power to acquire either within or without
17 the boundaries of the district, by purchase, donation or by other
18 lawful means in the name of the district, from private persons,
19 corporations, reclamation districts, swampland districts, levee
20 districts, protection districts, drainage districts, irrigation districts,
21 or other public corporations or agencies or districts, all lands,
22 rights-of-way, easements, property or materials necessary or useful
23 for carrying out any of the purposes of this act; to make contracts
24 to indemnify or compensate any owner of land or other property
25 for any injury or damage necessarily caused by the exercise of the
26 powers conferred by this act, or arising out of the use, taking or
27 damage of any property, rights-of-way or easements, for any of
28 these purposes; to compensate any reclamation district, protection
29 district, drainage district, irrigation district or other district, public
30 corporation or agency or district, for any right-of-way, easement
31 or property taken over or acquired by the Los Angeles County
32 Flood Control District as a part of its work of flood control or
33 conservation or protection provided for in this act, and any
34 reclamation district, protection district, drainage district, irrigation
35 district or other district or public corporation or agency is hereby
36 given power and authority to distribute compensation in any
37 manner that may be now or hereafter allowed by law; to maintain
38 actions to restrain the doing of any act or thing that may be
39 injurious to carrying out any of the purposes of this act by the
40 district, or that may interfere with the successful execution of that

1 work, or for damages for injury thereto; to do any and all things
2 necessary or incident to the powers hereby granted, or to carry out
3 any of the objects and purposes of this act; to require, by
4 appropriate legal proceedings, the owner or owners of any bridge,
5 trestle, wire line, viaduct, embankment or other structure which
6 shall be intersected, traversed or crossed by any channel, ditch,
7 bed of any stream, waterway, conduit or canal, so to construct or
8 alter the same as to offer a minimum of obstruction to the free flow
9 of water through or along any channel, ditch, bed of any stream,
10 waterway, conduit or canal, and whenever necessary in the case
11 of existing works or structures, to require the removal or alteration
12 thereof for that purpose. However, nothing in this act contained
13 shall be deemed to authorize the district in exercising any of its
14 powers to take, damage or destroy any property or to require the
15 removal, relocation, alteration or destruction of any bridge, railroad,
16 wire line, pipeline, facility or other structure unless just
17 compensation therefor be first made, in the manner and to the
18 extent required by the Constitution of the United States and the
19 Constitution of California.

20 The board of supervisors of the district is hereby vested with
21 full power to do all other acts or things necessary or useful for the
22 promotion of the work of the control of the floodwater and
23 stormwater of the district, and to conserve those waters for
24 beneficial and useful purposes, and to protect from damage from
25 floodwater and stormwater, the harbors, waterways, public
26 highways, and property in the district. However, this act does not
27 authorize the district, or any person or persons, to divert the waters
28 of any river, creek, stream, irrigation system, canal or ditch, from
29 its channel, to the detriment of any person or persons having any
30 interest in such river, creek, stream, irrigation system, canal or
31 ditch, or the waters thereof or therein, unless previous
32 compensation be first ascertained and paid therefor, under the laws
33 of this state authorizing the taking of private property for public
34 uses. This act does not affect the plenary power of any incorporated
35 city, city and county, or town, or municipal or county water district,
36 to provide for a water supply of that public corporation, or as
37 affecting the absolute control of any properties of that public
38 corporations necessary for the water supply, and this act does not
39 vest any power of control over the properties in the Los Angeles
40 County Flood Control District, or in any officer thereof, or in any

1 person referred to in this act. This act does not authorize the board
2 of supervisors to raise money for the district by any method or
3 system other than that by the issuing of bonds, the levying of a
4 tax, or the imposition of a fee or charge in compliance with Article
5 XIII D of the California Constitution, in the manner in this act
6 provided, except from the sale and lease of its property as provided
7 in this act.

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